



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,864	11/24/2003	Glenn F. Jorgensen	4436.76438	5169

24978 7590 02/21/2008
GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
----------	--------------

3754

MAIL DATE	DELIVERY MODE
-----------	---------------

02/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,864

Applicant(s)

JORGENSEN, GLENN F.

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7, 21, 24, 25, 31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 21, 24, 25, 31, and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 21, 24, 25, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kask in view of in view of Prior Art Figure 1 of applicants specification and Zaydel. The patent to Kask discloses the recited plug assembly where the use of such as a tube plug is merely intended use where the plug of Kask is capable of use with tubes as well, comprising an rubber tube plug 14 having a generally hollow body elongated along an axis, a front end, open rear end leading to a central axially extending blind hole having a predetermined internal diameter, a non expandable insert member 30 having a diameter greater than the blind hole, wherein inserting the insert member into the blind hole results plug body enlarging, the insert has a hole 40 for use of a tool and is formed of hard plastic, an enlarged head above 38 and below reference number 30 limits the insertion of the inserting member into the plug, the seal between the insert and the blind hole is seen in the figures to be a tight fit and would inherently result in a water tight fit, and the insert has at least one rib formed by the enlarged end. The patent to Kask discloses all of the recited structure with the exception of forming the insert of a different color, forming the end of the plug with a rounded end, forming the plug with a constant diameter smooth outer surface with a blind hole that has a constant

Art Unit: 3754

internal diameter extending substantially along the length of the hole, forming the insert with a plurality of ribs with a reverse taper, and forming the plug of an elastomeric material. It would have been obvious to one skilled in the art to modify the plug member of Kask to be of a shape that would include a smooth outer surface with a constant diameter and a constant internal diameter extending substantially along the length of the hole as suggested by Fig 1, where such is an equivalent form of a plug member used to plug a hole in a wall including when a pipe is provided in the hole where one skilled in the art would recognize the equivalence of the same type of plug member and would only require routine skill to substitute one type of plug member for another. The use of different color materials to form the insert and plug are considered an obvious choice of mechanical design where one skilled in the art would have found it obvious to change the colors to be more pleasing to the eye of the user and allow for more easily seeing the insert. The patent to Zaydel discloses the structure set forth above and it would have been obvious to one skilled in the art to make the plug out of any type of rubbery material including elastomeric material where such is a known material used for such plugs, to form the end of the plug as a rounded end where Zaydel discloses two shaped ends one which is shown also in Kask, and a second configuration having a rounded end thereby teaching the equivalence of using different shaped ends where such would make insertion easier, and to provide the insert with reverse taper ribs to prevent the insert from coming out of the plug easily thereby preventing failure as suggested by Zaydel, and thereby saving money.

Response to Arguments

Applicant's arguments filed February 5, 2008 have been fully considered but they are not persuasive. With regards to the rejection of claims under Kask in view of Figure 1 and Zaydel, it should be noted that the reference to Kask discloses a tight fit of element 32 into the member 14 such that it is expanded, that and the combination of the fact that the member 14 is made of soft rubber it inherently would achieve a liquid tight seal between the two regardless of the shape of the ribs, and Zaydel is used to teach modifying the rib shape, therefore it is considered inherent that the liquid seal is achieved. Applicant's attempt to suggest that such is unexpected results is not found persuasive when one skilled in the art would expect a rubber element being stretched by a plastic insert would achieve an inherent liquid seal and such would not be unexpected. It is also noted that there is no in depth discussion or proof for the statement of unexpected results, therefore such is also not persuasive for this reason as well. The remaining arguments directed at the other rejections are moot in light of the fact that these have been dropped.

Conclusion

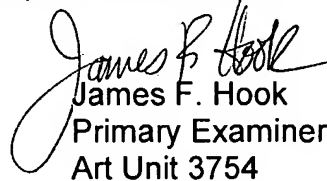
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Raeger, Kingsmore, Morin, Talan, and Kirvan disclosing state of the art plug like elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

Art Unit: 3754

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH